

REMARKS**A. INTRODUCTORY REMARKS**

Applicants acknowledge with appreciation the Examiner's allowance of claims 2-5 in this application. Claims 1-25 are pending in this application. Claim 1 stands rejected under 35 U.S.C. §102(b). Claim 2-5 have been allowed. Claims 6-25 have been withdrawn from consideration, and now have been canceled. Applicants hereby reserve the right to prosecute the subject matter of these claims in one or more divisional applications. No new matter is presented by these amendments. Accordingly, Applicant respectfully request entry of the amendment and reconsideration of claims 1-5.

B. REJECTION UNDER 35 U.S.C. § 102 (b)

On page 2 of the Action, claim 1 was rejected under 35 U.S.C. § 102 (b) as being anticipated by Ariyan *et al.*, U.S. Patent No. 3,621,032 or ("Ariyan"). The Action asserts that with respect to Claim 1, Ariyan discloses the compound that is claimed in the current application, *citing* col. 2, lines 16-32 and claims 1-4 of Ariyan. The Action further points out that the preamble to claim 1 of the current application is a future intended use statement and is being given little patentable weight. Action, at page 2.

Applicants respectfully traverse this rejection. While it is true that intended use statements in the preamble of claim typically are given little weight in considering the patentability of the claim, the preamble of the present claims does not recite an intended use. Rather, the claim positively recites a cathode active material, not a compound "for use in a cathode." To the extent that the Examiner believes alternative language may be more appropriate to define this aspect of the invention, applicants appreciate any suggestions he may have in this regard.

With respect to the prior art, Ariyan does not disclose or suggest a cathode active material. Further, Applicant submits that similar compounds to those recited in the claims are known from U.S. Patent No. 3,719,645 to Hiatt, as described in the specification on page 7, lines 26-30. Like Ariyan, Hiatt fails to disclose or suggest a cathode active material that includes the presently claimed compounds. Rather, Hiatt teaches the primary use of the compounds described therein as metal to metal binders, and protective coatings. Failing to disclose or suggest a positively recited feature of the present claims, the cited art does not

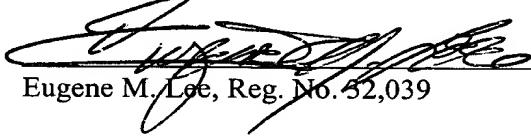
anticipate claim 1. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

In view of the response submitted herewith, applicant respectfully submits that claim 1 is in condition for allowance, an indication of which is solicited. In the event that any issues remain outstanding, applicant would appreciate the courtesy of a telephone call to the undersigned counsel to resolve such issues in an expeditious manner and place the application in condition for allowance.

Applicants believe that no fees are due in connection with this response. However, should any additional fees be determined necessary, the Commissioner is hereby authorized to charge our Deposit Account No. 50-1645.

Respectfully submitted,
LEE & STERBA, P.C.

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PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying papers may also be charged to Deposit Account No. 50-1645.